

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

APR -6 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

IN RE SOCHISE F.)
) 2 CA-JV 2011-0004
) DEPARTMENT A
)
) MEMORANDUM DECISION
) Not for Publication
) Rule 28, Rules of Civil
) Appellate Procedure
)
_____)

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. S1100JV200700283

Honorable Stephen F. McCarville, Judge

AFFIRMED

James P. Walsh, Pinal County Attorney
By Kate E. Milewski

Florence
Attorneys for State

Ritter Law Group, L.L.C.
By Matthew A. Ritter

Florence
Attorney for Minor

ESPINOSA, Judge.

¶1 The juvenile court adjudicated Sochise F. delinquent for threatening or intimidating in violation of A.R.S. § 13-1202(A)(1) and ordered him committed to the Department of Juvenile Corrections until his eighteenth birthday.¹ On appeal, Sochise argues insufficient evidence supported the court’s finding that his statements to the victim constituted a true threat. We affirm.

¶2 We view the evidence in the light most favorable to upholding the juvenile court’s adjudication. *In re Julio L.*, 197 Ariz. 1, ¶ 6, 3 P.3d 383, 385 (2000). In October 2010, the victim and her friend were waiting outside a church when Sochise approached them and accused the victim of making false statements about him. He stated she had “better watch out . . . I’m going to kill your whole family” and the next time she saw him, it would be her “wors[t] nightmare.” Sochise then began to walk in the direction of the victim’s home. He returned and continued to threaten the victim, yelling that he would “murder [her] dog” and her “whole family.”

¶3 Sochise and the victim had been involved in a romantic relationship that had ended approximately eighteen months before the incident. After the relationship ended, Sochise wrote letters to the victim, to which she did not respond. And he would come to her school, home, and other locations where she was. Each time, the victim told Sochise to leave her alone. The victim testified Sochise previously had “threaten[ed]

¹Sochise will turn eighteen in July 2011.

[her] and [her] friends,” but did not describe the nature of those threats. The incident at the church, however, was the first time he had threatened to harm her family or her dog.

¶4 “We will only reverse on the grounds of insufficient evidence when there is a complete absence of probative facts to support a judgment or when a judgment is clearly contrary to any substantial evidence.” *In re Kyle M.*, 200 Ariz. 447, ¶ 6, 27 P.3d 804, 805-06 (App. 2001). A person commits threatening or intimidating pursuant to § 13-1202(A)(1) “if the person threatens or intimidates by word or conduct . . . [t]o cause physical injury to another person or serious damage to the property of another.” Although the state need not demonstrate the person acted with wrongful intent, had the ability to carry out the threat, or intended to do so, the state must show the person communicated a “true threat.” *Kyle M.*, 200 Ariz. 447, ¶¶ 14-15, 23, 27 P.3d at 450-52. A statement is a true threat if, in light of the context and circumstances, a reasonable person would foresee that the statement would be interpreted “as a serious expression of an intent to inflict bodily harm.” *Id.* ¶ 23. This “objective test does not require a subjective analysis of the belief of the particular person to whom the threat is made.” *In re Ryan A.*, 202 Ariz. 19, ¶ 11, 39 P.3d 543, 546 (App. 2002).

¶5 Sochise argues that, because he never had acted on his previous threats, a reasonable person would not foresee that his statements would be interpreted as a serious expression of intent to inflict harm. We disagree. Nothing in the record suggests Sochise’s previous threats were as explicit or as vicious as the ones made here. And Sochise persisted in contacting the victim, both at her home and in public, despite her

repeated statements to him that she wanted him to leave her alone. A reasonable person could conclude his previous conduct made his threats more palpable. *Cf. Ryan A.*, 202 Ariz. 19, ¶ 15, 39 P.3d at 547 (previous threats suggest threat “true threat”). Accordingly, we find substantial evidence supported the juvenile court’s conclusion that Sochise’s statements constituted a true threat. *See Kyle M.*, 200 Ariz. 447, ¶ 6, 27 P.3d at 805-06.

¶6 For the reasons stated, the juvenile court’s adjudication of delinquency and disposition are affirmed.

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge